

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT J. MADDAUS,

Petitioner,

v.

JERI BOE,

Respondent.

CASE NO. 3:17-cv-06020-TSZ-GJL

ORDER LIFTING STAY AND
GRANTING EXTENSION OF
TIME TO AMEND PETITION

The District Court has referred this 28 U.S.C. § 2254 action to United States Magistrate Judge Grady J. Leupold. Currently before the Court are Motions to Lift the Stay of these proceedings, filed by both Petitioner Robert J. Maddaus and Respondent Jeri Boe. Dkts. 59, 60. In addition, Petitioner has filed a Motion for an Extension of Time to File an Amended Petition for Writ of Habeas Corpus. Dkt. 61. After review of the Motions and the relevant record, the Motions to Lift Stay (Dkts. 59, 60) are **GRANTED** and Petitioner's Motion for an Extension (Dkt. 61) is **GRANTED**.

On December 22, 2017, Petitioner filed a Petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 with this Court challenging his custody under a Thurston County Superior

1 Court judgment and sentence. Dkt. 4. On January 4, 2018, Petitioner requested a stay of this case
2 to allow Petitioner to attempt to exhaust his state court remedies. Dkt. 9. The request was granted
3 and the Court stayed this case. Dkt. 15.

4 On October 6, 2023, Respondent filed a Motion to lift the stay on the basis that
5 Petitioner's state court proceedings now appear to be complete. Dkt. 59. Petitioner filed a similar
6 Motion on October 11, 2023. Dkt. 60. Both Motions to Lift Stay indicate that the Washington
7 Supreme Court issued an Order terminating review of Petitioner's Personal Restraint Petition on
8 September 6, 2023. Dkt. 59 at 2; Dkt. 60 at 1. Because it appears Petitioner has now provided
9 every level of the state courts the opportunity to make a determination as to Petitioner's grounds
10 for relief, the Court finds lifting of the stay is appropriate.

11 Petitioner has also filed a Motion for leave to amend his habeas petition along with a
12 request for an extension of time in which to do so. *See* Dkt. 61. Respondent has not filed
13 opposition to Petitioner's Motion for leave to amend. *See generally* Dkt. As this is a habeas
14 corpus action, the Court finds justice requires allowing Petitioner leave to amend. *See* Fed.
15 R. Civ. P. 15(a)(2).

16 Therefore, it is hereby **ORDERED** that:

17 1) The Motions to Lift Stay (Dkts. 59, 60) are **GRANTED**. The stay of these
18 proceedings is **LIFTED**.

19 2) Petitioner's Motion for an Extension of Time to File an Amended Petition
20 (Dkt. 61) is **GRANTED**. On or before **November 13, 2023**, Petitioner may file an Amended
21 Petition for Writ of Habeas Corpus. The Amended Petition must be legibly written or typed
22 in its entirety, it should be an original and not a copy, it should contain the same case
23 number, and it may not incorporate any part of the original petition by reference. The
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1 Amended Petition will act as a complete substitute for the original petition, and not as a
2 supplement.

3 3) Within **forty-five (45) days** of the filing of the Amended Petition, Respondent
4 shall file and serve an Answer and any relevant state court records in accordance with Rule 5 of
5 the Rules Governing Section 2254 Cases in United States District Courts. As part of such
6 Answer, Respondent shall state whether Petitioner has exhausted available state remedies and
7 whether an evidentiary hearing is necessary. Respondent shall not file a dispositive motion in
8 place of an Answer without first showing cause as to why an Answer is inadequate. Respondent
9 shall file the Answer with the Clerk of the Court and serve a copy of the Answer on Petitioner.

10 4) The Answer will be treated in accordance with LCR 7. Accordingly, on the face
11 of the Answer, Respondent shall note it for consideration on the fourth Friday after filing.
12 Petitioner may file and serve a response not later than the Monday immediately preceding the
13 Friday designated for consideration of the matter, and Respondent may file and serve a reply not
14 later than the Friday designated for consideration of the matter.

15 Dated this 31st day of October, 2023.

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17  A handwritten signature in black ink, appearing to read 'Grady J. Leupold', is written over a solid black horizontal line.

18 Grady J. Leupold
19 United States Magistrate Judge
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